

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Telecommunications Relay Services)	CC Docket No. 98-67
And Speech-to-Speech Services for)	
Individuals with Hearing and Speech)	
Disabilities)	CG 03-123
)	
Petition for Declaratory Ruling on)	
Video Relay Service Interoperability)	
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Petition for Declaratory Ruling on Interoperability

**Respectfully submitted this 15th day
of February, 2005**

by:

**California Coalition of Agencies Serving
The Deaf and Hard of Hearing
(CCASDHH)**

**Jennifer Pesek, Esq.
J. Kendrick Kresse, Esq.
California Center for Law and the Deaf
14895 E. 14th Street, Suite 220
San Leandro, CA 94578
(510) 483-0922 Voice/TTY
(510) 483-0967 Fax**

Attorneys for CCASDHH

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SUMMARY

Through this petition, the California Coalition of Agencies Serving the Deaf and Hard of Hearing requests the FCC to prohibit any video relay service (VRS) provider that receives compensation from the Interstate Telecommunications Relay Service (TRS) Fund from purposely restricting its deaf and hard-of-hearing customers to a single VRS provider via the software or hardware of their VRS equipment or through exclusivity agreements with those customers. As the FCC noted in its recent rulings on VRS marketing and call handling practices, for a TRS user, accessing TRS or VRS is the equivalent of picking up the telephone and obtaining a dial tone. It is for this reason that longstanding Commission policy has been to require relay service that is functionally equivalent to voice telephone services. At present, however, a highly effective marketing scheme that has enabled one VRS provider to capture a dominant share of the VRS market has been preventing VRS from being functionally equivalent for all consumers because deaf and hard-of-hearing consumers using that provider's equipment are unable to use the services of other VRS providers for any incoming or outgoing calls.

In addition to being in violation of the Americans with Disabilities Act's mandates for functional equivalency and creating a potentially dangerous situation for consumers in the event of an emergency, the restrictive practices at issue are contrary to the Commission's overall efforts to achieve a seamless and integrated network of communications services, and inconsistent with national policies promoting competition, non-discriminatory practices, and dialing parity. By allowing a single provider to impose exclusivity service agreements on customers, while allowing that provider to collect money for VRS through the National Exchange Carriers Association (NECA) fund, the FCC is

condoning and supporting these restrictive practices, and contributing to the creation of a VRS monopoly. Moreover, the FCC is allowing the provider to engage in an end run around the requirement for VRS providers to handle all calls that a common carrier would otherwise handle. As such these practices should not be tolerated by the FCC.

It should make no difference if the provider alleges that consumers have consented to these exclusivity agreements. Not only will that consent, in many cases, be highly suspect because of the language differences of deaf and hard-of-hearing VRS consumers and the technical complexities involved, but the FCC should not allow consumers to waive the functionally equivalent mandates that have been the bulwark of the relay provisions since 1990. Nor should it matter that consumers may be able to access another VRS by acquiring a separate video device. Having two separate devices creates a considerable burden for consumers, who, among other things, must keep separate lists of contacts, unique names and passwords and learn how to operate two systems. Nor can side-by-side units offer an acceptable option for incoming calls; because consumers must use one appliance at a time, a call that comes into the unit that is turned off will be missed. Just as hearing people are not expected to have two separate devices to make or receive calls from the universe of telephone subscribers, neither should VRS users be expected to have dual equipment.

This would not be the first time that the Commission has imposed a condition of interoperability to respond to a market problem. For nearly identical reasons, the FCC imposed a similar condition when it approved the AOL-Time Warner merger. At that time, the FCC found the closed system perpetuated by the dominant provider to be anticompetitive and unreasonable. Similarly, the FCC should not now allow the NECA

fund, which is supported by the entire population of interstate telephone subscribers and administered by the federal government, to be used to subsidize such restrictive practices.

Until full interoperability of VRS is required, consumers will never be assured that they will have equal access to the full, nationwide pool of VRS interpreters needed to effectively respond to their communication needs. In order to encourage innovation and competition, and to fully comply with the Communication Act's mandates for functionally equivalent relay service, the FCC should impose a condition of interoperability on all VRS providers as a prerequisite to receiving compensation from the Interstate TRS Fund.

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Petition for Declaratory Ruling on Interoperability

I. Introduction

On behalf of deaf and hard-of-hearing consumers, the California Coalition of Agencies Serving the Deaf and Hard of Hearing¹ hereby petitions the FCC to impose a condition of interoperability on all video relay service (VRS) providers as a prerequisite to receiving compensation from the Interstate Telecommunication Relay Service (TRS) Fund. The Coalition sincerely appreciates the FCC's recent clarifications on call handling and marketing practices, released on January 26, 2005.² In these documents, the Consumer and Governmental Affairs Bureau (CGB) stated that "[t]he TRS rules do not require a consumer to choose or use only one VRS (or TRS) provider," and explained that consumers "may use

¹ The Coalition consists of eight community-based nonprofit agencies providing various social services to deaf and hard-of-hearing Californians – Deaf Counseling, Advocacy and Referral Agency; Greater Los Angeles Agency on Deafness, Northern California Center on Deafness, Deaf and Hard of Hearing Service Center; Orange County Deaf Equal Access Foundation; Tri-County GLAD; Center on Deafness – Inland Empire, and Deaf Community Services of San Diego.

² *Federal Communications Commission Clarifies that Certain Telecommunications Relay Services (TRS) Marketing and Call Handling Practices are Improper and Reminds that Video Relay Service (VRS) May Not be Used as a Video Remote Interpreting Service*, Public Notice DA 05-141 (January 26, 2005) (Public Notice) at 4; *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Declaratory Ruling, CC Dkt No. 98-67, CG Dkt No. 03-123, DA 05-140 (January 26, 2005) (Declaratory Ruling) at 4.

one of several VRS providers available on the Internet or through VRS service hardware that attaches to a television.” But CGB’s rulings stopped short of requiring complete interoperability of a provider’s VRS system, allowing providers to continue engaging in restrictive practices so long as consumers give their “informed consent” to these practices. The Coalition believes that a halt to some of the marketing practices that have been occurring may be useful to consumers wishing to use multiple VRS vendors. But until VRS consumers are able to enjoy complete interoperability, they will be denied relay services that are functionally equivalent to conventional voice telephone services. Just as providers are not permitted to violate other standards of functional equivalency (e.g., confidentiality, the handling of multiple calls, the provision of qualified Communication Assistants (CA’s)) so to they should not be permitted to deny access to multiple VRS systems merely because a consumer has given his or her consent. Stated otherwise, under no circumstances should consumers be limited in the use of VRS equipment to a single provider if that provider is receiving reimbursement from the Interstate TRS Fund for services provided through that equipment.

Over the past few years VRS has witnessed spectacular growth. The National Exchange Carriers Administration (NECA) now reports more than one million VRS minutes a month, more than a 300 percent increase in the number of such calls handled at this time last year. In sharp contrast to traditional text-to-voice relay services, VRS allows deaf and hard-of-hearing consumers who use sign language to have naturally flowing, real-time conversations. Instead of having to type their conversations in a slow and laborious fashion, when using VRS, these consumers can express emotions more easily, access interactive telephone services, and actively participate in conference calls and other calls

requiring other real-time communications. The benefits of faster and fuller communications also flow to hearing consumers of VRS, with whom it is also popular. In addition, by freeing deaf individuals from dependency on the keyboard and text, VRS is allowing many in the deaf community to make effective use of telecommunications for the first time: those who have signing skills but who physically cannot or do not have the skills to type or who have insufficient English (or Spanish) skills to compose or read, such as the elderly, children or immigrants.

Despite the wonders of VRS and its startling growth, the VRS industry today does not provide true functional equivalency for those it is supposed to serve. A big reason for this is because one of the VRS providers, Sorenson Media, has captured a dominant share of the business by way of a highly effective marketing scheme that allows its participating customers to communicate with one another and with it more easily and with less expense than they can with other deaf or hard-of-hearing video users and VRS providers. The scheme includes the provision of a free video appliance that works in conjunction with a customer's television – and in many cases, a free TV is provided as well – through a broadband connection over the Internet. No computer is necessary when using the appliance to have a videoconference with another party. Another very popular feature of the device is that it conveniently allows the customer to use his existing phone number as an alias for his Internet Protocol (IP) address. But importantly, this popular feature *only* works with users of the same appliance and with the VRS provider's own service.³ The

³ The appliance, a "VP 100," was developed by Sorenson and is only available on loan from the company to deaf or hard-of-hearing consumers who use sign language. Because it uses an alias address or number for receiving calls from other participating customers ("point-to-point calls") and from Sorenson VRS, *see infra* at pp. 5-6, the customer also does not need a static public IP address which requires a more expensive broadband service and which is necessary for users of traditional videoconferencing equipment to receive a video call. The additional cost of a static IP address is significant, particularly for deaf and hard-of-hearing people whose incomes are typically lower than those in the general population. Obtaining a domain name is a

appliance is additionally programmed to block a customer from contacting any other VRS with it and the consumer must also agree not to use the device to make a call to or receive a call through another VRS. The result is that a majority of deaf and hard-of-hearing VRS consumers have videoconferencing equipment⁴ that is functionally not interoperable with users of other equipment and functionally and contractually not interoperable with other VRS. The purposeful failure to make these video appliances interoperable with other VRS and easily interoperable with other video appliances is inconsistent with the goal of functional equivalency and significantly impedes the benefits that they would otherwise provide for deaf and hard-of-hearing consumers, in violation of various federal telecommunications laws and policies.

II. Market Practices in the VRS Industry Do Not Lend Themselves to the Provision of Seamless, Integrated Communications Services.

When a hearing person picks up a wireline or wireless phone to make a call, that individual can immediately access anyone with a phone, at anytime, regardless of the telephone carrier to which that person or the called party subscribes. This is not the case for most deaf and hard-of-hearing VRS consumers. When a consumer makes a VRS call through the equipment provided by the largest VRS provider, he is restricted to using only the services of that provider, despite the fact that these services are fully compensated from

potentially lower cost but still a problematic alternative. Setting it up requires technical know how and its use requires the consumer to have an associated computer on line anytime he is available to answer a video call.

⁴ Another video appliance, the D-Link i2eye, also developed by Sorenson, is available for purchase on the retail market and also is provided outright for free – and with no restrictions on its use – from some other VRS providers. The D-Link is essentially a more basic model than the VP 100, with fewer user interface features and a slightly lower quality of video image, that uses the same proprietary compression technology that enable these devices to work effectively with TV's. The two devices are the only such video appliances widely available and Sorenson is to be commended for developing and making the technology available for deaf and hard-of-hearing sign language users. The D-Link also allows its owner to use his telephone number as an alias IP address, but only for point-to-point calls with other D-Link users. Thus, with only a dynamic IP address, although its user can make video calls to anyone using video equipment (by entering static public IP

a federally administered program funded by surcharges on all interstate telephone service subscribers. If, at the time that the deaf or hard-of-hearing consumer places the call, he or she does not “receive a dial tone,” i.e., is placed in a queue, because the provider is experiencing wait times of anywhere from 10 to 30 minutes – which, without a speed of answer requirement, is now often the case – the consumer is unable to try making the call through a different VRS provider because the equipment blocks all such calls. In this instance, the consumer who relies on this equipment, has no choice but to wait until a relay interpreter from that single provider becomes available. During this wait time and especially when the call is urgent, the consumer can experience considerable frustration and anxiety, which continue to build while the consumer remains at the mercy of the provider’s queue. To make matters worse, the consumer is not permitted to accept incoming calls from another VRS through the equipment due to the terms of the equipment loan agreement.

In its recent rulings clarifying marketing and other practices by relay providers, the Commission confirmed – as it has on prior occasions – that “for a TRS user, reaching a CA to place a relay call is the equivalent of picking up a phone and getting a dial tone.”⁵ The FCC explained further that the obligation placed on TRS providers is to be available to handle calls consumers choose to make, when they choose to make them.⁶ But the terms set forth by the largest VRS provider create restrictions on users that do not exist for dial tone service.

One of the ways that the largest provider maintains exclusivity of its services is by

addresses or domain names for those not using a D-Link), he cannot effectively receive video calls from non-D-Link users, including any VRS calls.

⁵ Declaratory Ruling at 4.

using a closed “lightweight directory access protocol” (LDAP), which includes a restricted database. The LDAP resides on the provider’s server for its equipment only and has an “authentication” service that permits access only to authorized users. When a hearing individual using a competitor’s VRS tries to call one of the largest provider’s participating customers using the LDAP number assigned to that customer, the call is blocked. The hearing caller – not knowing why his or her call to the destination LDAP number has not succeeded in reaching its destination – may then be discouraged from making a call and the deaf or hard-of-hearing consumer may never know a call was attempted. While a hearing caller might be able to technically get around this obstruction by providing the VRS provider with the deaf consumer’s IP address, more often than not, the IP addresses are dynamic and change every time a consumer goes on line. For this reason, deaf and hard-of-hearing users typically do not even know what their IP addresses are. Acquiring a static – or permanent – IP address is costly; it is a practice more often employed by businesses rather than consumers at home. But even if the deaf consumer has a static IP address that is known by the hearing caller, the deaf consumer is bound by the equipment loan agreement not to receive calls from a competing VRS. FCC rules are clear in requiring TRS providers to “be capable of handling any type of call normally provided by common carriers.”⁷ The only exceptions to this rule are calls that are not technically feasible.⁸ Common carriers normally accept and transmit all calls carried over a competitor’s network. The largest VRS provider’s policy of not permitting its participating consumers to receive calls made through a VRS competitor appears to be an end run around this requirement for calls that

⁶ *Id.*

⁷ 47 C.F.R. § 64.604 (a)(3).

are otherwise technically feasible, and therefore should not be tolerated by the FCC.

In its recent Public Notice, the FCC made a point of prohibiting VRS providers from adjusting the hardware or software of an individual's VRS equipment "to restrict access to other VRS providers without the consumer's informed consent."⁹ In fact, however, consumer awareness of both the contractual restrictions imposed on them and the technological restrictions imposed on the video appliances they are receiving is generally quite low. Expecting consumers to understand these restrictions and relate them to potential hearing callers is itself a barrier to communications.

As shown below, the failure to require the interoperability of video relay services is inconsistent with the Commission's policies – as applied to wireline, wireless, and Internet services – to promote equal communications access by people with disabilities, the interconnection and compatibility of telecommunications equipment and services, and competition within the telecommunications industry. These policies are longstanding; as far back as 1968, the FCC struck down an AT&T tariff restricting interconnection with AT&T's network as "unreasonable" and "unduly discriminatory" in the now famous *Carterfone* case.¹⁰ The tariff in question had stated that "[n]o equipment, apparatus, circuit or device not furnished by the telephone company shall be attached to or connected with the

⁸ To date, the FCC has only permanently ruled that one type of call – coin sent-paid calls – are technically infeasible and therefore exempt from this requirement.

⁹ Public Notice at 3.

¹⁰ *In the Matter of Use of the Carterfone Device in Message Toll Telephone Service; In the Matter of Thomas F. Carter and Carter Electronics Corp., Dallas, Texas v. AT&T, Associated Bell System Companies, Southwestern Bell Telephone Co. and General Telephone Co. of the Southwest*, Decision, Dkt Nos. 16942 & 17073, FCC 68-661, 13 FCC 2d 420, 424 (June 26, 1968) (striking down FCC Tariff No. 263, Sections 26.1 & 29.1). This followed an even earlier case involving a device called the Hush-a-phone, where the FCC had similarly ruled that telephone companies could not prohibit foreign attachments to their networks if those attachments were beneficial to the user and not detrimental to others. *Hush-A-Phone Corporation v. United States*, 238 F.2d 266, 269 (D.C. Cir.), 99 U.S. App. D.C. 190, 193 (1956).

facilities furnished by the telephone company, whether physically, by induction or otherwise.” The Commission ruled that AT&T had no right to deny the connection of other equipment to its telephone network, if the connection did not cause any harm to AT&T’s operations or use of the telephone system for other people. Interestingly, it was this very case that prompted AT&T to open its network to TTY’s and hearing aid compatible telephones used by people who were deaf and hard of hearing.

In the decades since *Carterfone* was decided, Congress and the Commission have consistently renewed their commitment to policies that promote the interconnection of services and equipment, in the interest of both furthering competition and facilitating use of the nation’s public telecommunications networks by the broadest number of consumers possible. Indeed, the requirement in Section 225 directing relay providers to allow their customers to use their long distance provider of choice is a form of interoperability designed to foster competition for relay calls made over long distances.

III. Restricting the Consumer’s Choice of VRS Provider Severely Limits User Access in Violation of Communication Laws and Policies.

A. Restricting Interoperability Violates Principles of Functional Equivalency under the Americans with Disabilities Act and the Communications Act.

When Congress began tackling discrimination against people with disabilities in America through passage of the American with Disabilities Act’s (ADA), it recognized that “the inability to utilize the telephone system fully [was having an] enormous impact on an individual’s ability to integrate effectively in today’s society.”¹¹ Title IV of the ADA, codified as Section 225 of the Communications Act, was Congress’s attempt to enable people who were deaf, hard-of-hearing and speech disabled to finally become part of “the

¹¹ S. Rep. No. 116, 101st Cong., 1st Sess. 77 (1989). “To participate actively in society, Congress explained, one must have the ability to call friends, family, businesses, and employers.” *Id.* at 78.

telecommunications mainstream,”¹² so that they could “achieve the level of independence in employment, public accommodations and public services sought by other sections of the [ADA].”¹³

Prior to the ADA’s passage, states varied widely in the restrictions they imposed on relay service users. Limitations on the number, length and time of day that relay calls could be made were common. Because funding for TRS varied considerably from state to state, variations in the blockage rates were also typical. Sometimes consumers were forced to wait hours to make a single call; other times they could not get through at all. The ADA was designed to put an end to these restrictions and state variations so that all TRS users would have the same seamless access to the nation’s telephone network that the hearing community enjoyed: “The Committee finds that to ensure universal service to this population of users, service must be made uniformly available on a local, intrastate, and interstate basis. . . . It is essential to this population’s well-being, self sufficiency and full integration into society to be able to access the telecommunications network and place calls nationwide without regard to geographic location.”¹⁴

In compliance with the ADA, since 1991, the FCC has promulgated mandatory minimum relay standards that have replaced previously restrictive TRS practices with comprehensive mandates for a telecommunications system designed to be functionally equivalent to the telephone system used by the general public. Practices that limit the interoperability of relay services fly in the face of these efforts, and send relay users back to

¹² *Id.* at 78.

¹³ *Id.* at 79.

¹⁴ *Id.*

the days when the scope of their telecommunications access was extremely limited.

Perpetuating a practice by a VRS provider that both blocks deaf and hard-of-hearing consumers from calling another VRS and inhibits, indeed, prohibits receiving calls from hearing people that are made through another VRS, is incongruous with a seamless and integrated telecommunications network, at best hampers the independence and productivity of these deaf and hard-of-hearing consumers, and at worst, can put their health at risk.

Such a practice is contrary to the ADA.

What's wrong with a closed network of relay services so long as the consumers participating in this network have no objection to the restrictions imposed on them? In the first place, most deaf and hard-of-hearing consumers receiving devices from the largest VRS provider probably do not have a full understanding of the restrictions on their outgoing and incoming calls. But even those that do are nevertheless motivated to participate due to the sheer size of the provider's network of participating consumers who can easily call one another due to the closed LDAP used by the provider's video appliances. It is incumbent upon the FCC, as the agency charged with overseeing the nation's relay services, to step forward to ensure that the VRS industry offers the same level of seamless, integrated communications that is available to non-VRS users.

B. Strong Precedent Exists for an FCC-Imposed Condition of Interoperability.

A few years ago, the Commission was presented with a situation strikingly similar to the one now before it when it was tasked with reviewing America Online's (AOL's) policies on sharing Instant Messaging (IM) user lists.¹⁵ At that time, the Commission examined the "network effects" phenomenon, which is common to telephone services and

¹⁵ *Transfer of Control of Licenses and Section 214 Authorizations by Time Warner Inc. and America Online, Inc.*, 16 FCC Rcd. 6547 (2001) (AOL-Time Warner Merger).

other businesses whose products provide access to and among other people. The Commission explained that “network effects” occur when a “service’s value increases substantially with the addition of new users with whom other users can communicate.”¹⁶ When companies subject to this phenomenon have networks that are of approximately equal size, each has an incentive to make its services compatible with those provided by its competitors, to broaden the universe of users its customers can access.¹⁷ However, when a single provider in one of these industries has a much larger market share than its competitors, the outcome is far less desirable for consumers. The largest provider might refuse to interoperate with other providers, forcing consumers to switch to that provider just in order to have access to the provider’s other users. The FCC explained that this shift will continue contributing to the growth of the largest provider, “until the largest provider’s network is the dominant one, perhaps yielding the provider monopoly control of the market. From that point onwards, the dominant network remains dominant, not necessarily because it charges the lowest prices, offers the best quality, or innovates fastest with the features that customers want most, but simply because in the past it gained the most users.”¹⁸ According to the FCC, this was precisely what was occurring with AOL’s text-based IM service. Specifically, because AOL was refusing to share its Names and Presence Database (NPD), i.e., its database of “buddy lists,” AOL customers were unable to interact with the customers of other IM providers. The larger AOL’s network of IM subscribers became, the

¹⁶ *Id.* at ¶ 157.

¹⁷ *Id.* at ¶ 183.

¹⁸ *Id.* at ¶ 184.

more attractive the size of this network became for new subscribers.¹⁹

The Coalition submits that the outcome both feared and predicted by the FCC with respect to AOL's market share of IM service has already become a reality in the VRS industry. By failing to make its video appliances interoperable with other video products available in the market and restricting its LDAP to only its deaf and hard-of-hearing customers, the largest provider of VRS has created a universe of its own deaf and hard-of-hearing customers who are only able to communicate with one another through point-to-point video calls and with hearing parties through its own VRS. It has then leveraged these network effects (i.e., its market advantage produced through this service) to drive up its VRS market position.

In its recent rulings on VRS marketing practices and rewards programs, the Commission struck down a rewards program, not because customers were mandated to use its provider's services, but because the program had "the *effect* of enticing customers" to use those services.²⁰ The FCC also prohibited providers from informing consumers that they could only have one VRS provider because "[t]hese statements have the *effect* of requiring the consumer to choose a single VRS provider."²¹ The dominant provider's marketing scheme has had the similar *effect* of locking consumers into its video relay services. This is occurring primarily because deaf and hard-of-hearing consumers who are interested in having access to this provider's relatively large customer network can only do so by using its own video appliance, which they then cannot and may not use to call or be called through a competing VRS. This outcome is contrary to both the FCC's policies

¹⁹ *Id.* at ¶ 188.

²⁰ Declaratory Ruling at 4 n.30.

²¹ Public Notice at 2.

against forcing TRS consumers to choose a single provider (where multiple providers are available such as is in California), as well as contrary to notions of functional equivalency.

As held true for AOL's IM service, the more customers there are in the largest VRS provider's network, the more other deaf and hard-of-hearing consumers have found it necessary to join the network to access friends and relatives. As a consequence, like AOL, the largest VRS provider has amassed a universe of users that is several times greater than all of the other VRS providers combined.²² Precisely because the provider has resisted interoperability, it has been able to increase its VRS dominance to a point where it now claims approximately 70 percent of the market. There is little doubt that this extraordinary market growth will continue unless the FCC requires VRS interoperability. What makes the largest VRS provider's current restrictive marketing practices even more troublesome than AOL's IM restrictions is that the former are being supported by public funds channeled through the TRS Interstate Fund.

The FCC found that AOL's "market dominance in text-based messaging, coupled with the network effects and its resistance to interoperability, establishe[d] a very high barrier to entry for competitors that contravene[d] the public interest in open and interoperable communications systems, the development of the Internet, consumer choice, competition and innovation."²³ Exactly the same can be said of the current VRS market and the benefits that consumers can obtain from VRS; without full VRS interoperability, there is no way that deaf and hard-of-hearing consumers can enjoy the same level of seamless, interconnected telephone access enjoyed by the general public.

²² *Id.* at ¶ 190.

²³ *Id.* at ¶ 157.

While it is true that the largest provider does have some competition from other VRS providers, the FCC previously found that the ability of consumers to use more than one communication service is not an adequate substitute for interoperability. With respect to IM, for example, the Commission ruled that having to acquire separate service from multiple vendors would create a considerable inconvenience for consumers, who, among other things, would have to keep separate buddy lists, maintain separate accounts, unique names and passwords, and download separate software.²⁴ Similarly, in order to have access to multiple VRS providers, consumers must have more than one video appliance installed in their homes and at work. Using devices side by side presents other problems. For example, if the consumer has one IP address, which is usually the case, one of the units must be turned off for the other to work. This is particularly a problem for incoming calls, as the consumer may have one unit turned on when there is an incoming call being attempted to the other unit. Although the FCC has now prohibited marketing practices that discourage consumers from installing the equipment of more than one VRS service,²⁵ it is clear that deaf and hard-of-hearing consumers who successfully obtain two or more video appliances will be seriously burdened by this arrangement. In addition, a requirement to maintain two separate devices does not comport with the notion of functional equivalency; hearing people are not expected to have two separate telephones to enable them to converse with the entire universe of telephone users.

The fact that new companies have entered the VRS market also does not indicate healthy competition. As the Commission concluded in its AOL-Time Warner ruling, new

²⁴ *Id.* at ¶ 194. Given these inconveniences, the Commission concluded, “the fact that millions of people use more than one IM service (especially AOL and one or more other services) indicates not easy adaptation but the great value that users put on being able to communicate with more, rather than fewer, people.”

entry might signal the existence of competition “in a stable, mature business,” but IM – and now VRS – did not fall into this category. With respect to IM, the FCC said new entry could be explained by smaller providers seeking to attract business from niche markets, or their attempts to seek new customers through promotional inducements or sophisticated features and functions. None of these, the FCC concluded, were likely to significantly draw away enough customers to reduce the dominance of the largest provider.²⁶

Again, the VRS situation is analogous. Although there have been new entrants to the VRS industry over the past year, various factors can account for this new entry and it is unlikely any new entrant will make a significant dent in the dominant provider’s market share. One likely factor that accounts for new entrants is the uncertainty that exists with respect to the separation of state and federal jurisdiction over VRS. As the FCC continues to contemplate shifting authority over VRS to state governments, TRS providers may recognize that if they are not equipped to offer VRS, their chances of winning state contracts that require the delivery of VRS as part of a package of relay services will be significantly diminished. In addition, just like AOL’s IM competitors had tried to do, some smaller VRS providers have tried to acquire a market share by attracting niche groups (e.g., schools for the deaf), and conducting promotional inducements (e.g., now prohibited rewards programs).

In 2001, the FCC concluded that AOL’s resistance to IM interoperability was unfairly taking advantage of the network effects produced by its market dominance to the detriment of consumers and healthy competition in the IM industry. But the FCC was particularly concerned about the effects that AOL’s restrictive policies would have on

²⁵ Public Notice at 3.

people with disabilities:

With interoperability, communication between users that was inconvenient becomes convenient, communication that was impossible becomes possible, and new entrants are enabled to bring their innovations and creativity promptly to the largest possible number of users. Interoperability of NPD-based services will open new possibilities for communication for persons who are deaf or hard of hearing, persons with speech and/or learning disabilities, persons with cognitive limitations, and others for whom voice communication is problematic - who may come to rely on IM as a basic means of communication.²⁷

Noting the benefits of IM as a “mass medium for the almost instantaneous exchange of text messages,”²⁸ the Commission went on to point out that AOL’s restrictive policies could be especially harmful for people with hearing and speech disabilities who wanted to be able to access IM services through hand-held devices that could not support the software needed for access to multiple systems. Similarly, if VRS becomes portable, which it is expected to do as 3G and other wireless systems continue to be developed, lack of VRS interoperability will create even greater hardships for deaf and hard-of-hearing people who come to rely on this technology as their primary means of communication.

Because the FCC feared that the Time Warner assets AOL would acquire would only increase its position of dominance and exacerbate the anti-competitive effects of its current practices, it attached a condition on the companies’ merger, forbidding AOL from providing video streaming IM-based high-speed services (AIHS) applications until it made available the data in its NPD’s or otherwise entered into contracts for server-to-server interoperability with IM competitors.²⁹ The Commission rejected AOL’s proposals to

²⁶ *Id.* at ¶ 192.

²⁷ *Id.* at ¶ 159.

²⁸ *Id.* at ¶ 164.

²⁹ *Id.* at ¶¶ 224-5. Specifically, AOL Time Warner was directed to demonstrate that the adopted protocol made

handle this matter in a rulemaking, concluding that this was a “time-sensitive” matter that needed to be addressed immediately, before AOL’s domination went “beyond correction by marketplace forces.”³⁰ The remarkable similarities between the IM market conditions then and the VRS market conditions now make the FCC’s lengthy explanation for the conditions it imposed on AOL Time Warner worth repeating:

We find that the public interest is served by interoperability among NPD-based services, first and foremost because interoperability will bring concrete and significant improvements to all consumers. . . . [T]he network effects of the business, instead of entrenching the largest incumbent, will work to the benefit of all users. The rewards of success in the marketplace will go to the provider who offers the most value to consumers rather than automatically to the first provider who amassed a large body of users. Alternately, if a single provider achieves dominance by relying on network effects and refusing to interoperate, actual and potential competing providers will be driven from and kept out of the market, resulting in a loss in competition, innovation, and consumer welfare. Interoperability would also continue the long-standing tradition of the Internet being open and interoperable. In sum, interoperability will benefit consumers and be in the public interest because (i) it enables each user to communicate with the largest number of other users through one source, thus maximizing efficiency; (ii) it leads to more product and service choices and convenience for users; (iii) it leads to more competition, thus avoiding the need for regulation; and (iv) it leads to more innovation.³¹

available to another provider of NPD-based services such data in AOL Time Warner's NPD(s) as will enable the other provider's users to know the addresses of AOL Time Warner users and detect their presence online, to the same extent that AOL Time Warner's users know each others' addresses and detect each others' presence online. AOL Time Warner must also demonstrate that the protocol makes available to other IM providers any other information used by AOL Time Warner to implement and process transactions of AIHS services

The merged companies were also directed to provide “the same quality and speed in processing transactions to and from the other provider as it affords to its own transactions of the same type.”

³⁰ *Id.* at ¶ 218. Elsewhere in the merger document, the Commission explained, “we must also weigh the danger of inaction where the window of opportunity to preserve competition and protect the other policies of the Communications Act may be narrow because the markets are changing rapidly.” *Id.* at ¶ 161.

³¹ *Id.* at ¶ 159.

C. Requiring VRS Interoperability is in the Public Interest.

1. Deaf and Hard-of-hearing Customers of the Largest Provider are Harmed by Not Being Able to Access the Services of Other VRS Providers for Ordinary Calls.

There can be no question that, like the requirement of IM interoperability, the public interest would best be served by requiring VRS interoperability. Anecdotal evidence suggests that, at present, limited interpreter availability has resulted in very long wait times – up to 20 minutes or more – to access video relay services through the largest VRS provider.³² Although this is partly due to the fact that the Commission does not have a VRS speed of answer requirement, even were there such a requirement, it would be unreasonable to expect a single provider to be able to guarantee immediate VRS access on a 24/7 basis due to unexpected spikes in demand that can and do occur.

Until full interoperability of VRS is required, consumers will never be assured that they will have equal access to the full, nationwide pool of VRS interpreters needed to effectively respond to their communication needs. Principles of functional equivalency require that the FCC take action to ensure that deaf and hard-of-hearing VRS users have the same ability to “pick up the phone” at any time, at any place, that hearing people now have.

2. Deaf and Hard-of-hearing Customers of the Largest Provider are Harmed by Not Being Able to Receive Incoming Calls Placed Through Another Provider’s VRS.

The failure to provide interoperability is also contrary to the public interest because it negatively impacts the ability of individuals to receive calls placed over a VRS competitor’s network. Indeed, because the largest provider restricts access to its LDAP, limits are imposed on hearing individuals who are not even bound by the largest provider’s contractual agreements, despite the fact that these individuals also must contribute through

surcharges to the TRS Fund. Specifically, hearing individuals are not able to use a competitor's VRS to make business or social calls to deaf and hard-of-hearing VRS customers who are restricted by the closed system.

Even if it could be argued that a deaf or hard-of-hearing person has the right to limit his or her own access to alternative VRS providers in exchange for receiving a free piece of equipment (which the Coalition does not believe is permissible in this instance because this practice is being supported by the federally administered NECA Fund), there can be no justification for a practice that limits the rights of third-parties to place VRS calls with the provider of their choice.³³ The refusal to allow third parties from contacting deaf or hard-of-hearing persons through an alternative network is plainly anticompetitive and unreasonable. The FCC should not allow the NECA fund, which is supported by the entire population of interstate telephone subscribers and administered by the federal government, to be used to subsidize this practice.

3. Disallowing Interoperability Creates Significant Dangers in the Event of an Emergency.

Perhaps the strongest reason to require interoperability of VRS calls is the dangers that are caused by failing to have an open VRS network in an emergency situation. At present, in the event of an emergency, users dependent on the largest VRS network must rely on that provider alone to make or receive VRS calls because they cannot make calls to and are not permitted to receive VRS calls from other VRS providers. Although the Commission and VRS providers caution the deaf, hard-of-hearing and speech disabled

³² The Commission has not required public reporting of VRS provider wait times.

³³ In any event, the fact that the equipment is distributed for free should not have any bearing on whether the practice of disallowing that equipment from being used to place calls over the networks of other providers is permissible. *See e.g., National Telephone Services, Inc.*, 8 FCC Rcd. 654, 71 Rad. Reg. 2d (P&F) 1157 (CCB 1993), where the Bureau upheld payments of commissions to aggregators for their costs of making service

public not to rely on VRS for emergency communications, the reality is that many in the community have abandoned their TTYs, choosing instead to use VRS exclusively for calls they make to hearing parties. This is particularly the case for persons with limited English or typing skills who cannot or do not use TTYs.

The Commission has acknowledged the importance of continuing to provide these individuals with an immediate connection to police, fire, and medical assistance, and to that end, has directed VRS providers to be capable of automatically and immediately referring all emergency calls to public safety answering points (PSAP's) by January 2006.

Restricting access to VRS to one provider thwarts the goals behind this directive. Put simply, it makes little sense for the FCC to allow the largest provider's restrictive practice while at the same time requiring that all VRS providers make their operations capable of rapidly responding to emergency calls.

When access to a communication network is blocked in any way – as it is for VRS consumers who first cannot reach an “outside line” (a VRS interpreter) when their exclusive provider is operating at capacity and unable to meet demand, and then cannot receive calls back from a PSAP or other emergency service – reliance on that network becomes dangerous. In a fire, a medical emergency, or a crime in progress, seconds count. People can die, suffer harm to their health or property or suffer financial loss while enduring a lengthy wait for a VRS interpreter to become available or waiting for a return call that can bring vital information. In addition, a practice that prohibits deaf and hard-of-hearing consumers from accessing another VRS provider when in dire need of emergency assistance conflicts with our nation's homeland security policies, which are designed to

and facilities available to the transient public as a legitimate business practice so long as callers were not prevented from using any other carrier to place a call.

facilitate, not restrict, access to emergency support – especially when an emergency strikes a sizeable area. Not only are the constrained deaf and hard-of-hearing VRS users at risk of being prevented from seeking timely assistance and receiving critical information for their health and safety, their hearing friends or relatives, who encounter their own emergency situation and try to reach those deaf and hard-of-hearing individuals, face a similar risk of failure.

If a particular provider's VRS is unintentionally shut down or overwhelmed by an influx of calls, as is the case in times of a national crisis or a weather disaster, consumers should be able to turn to other VRS providers to ensure that their lines of communication are not cut off. On September 11, 2001, when Maryland and New York closed down their governmental buildings, the trunks to the TRS facilities used in Baltimore and New York were impacted when the loss of local dial tone access disabled those facilities for extended periods. In order to ensure the health and safety of TRS users if future disasters similarly shut down TRS systems, the FCC has now agreed to sponsor any relay center's application to the Department of Homeland Security's National Communications System to obtain Telecommunications Service Priority.³⁴ Relay centers that receive such status will be given priority when it comes time to restore telecommunications services after a disaster occurs. The failure to require VRS interoperability runs counter to this objective, as it will virtually ensure that consumers depending upon a non-interoperable provider will be without access when that provider has an emergency that forces its operations to shut down.

³⁴ *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, CC 90-571, CC 98-67, CG 03-123 (June 10, 2004) at ¶ 47. The Commission noted that “[w]e continue to believe that all appropriate steps should be taken to ensure that service to TRS facilities is made available in time of emergency.” *Id.* at ¶ 45.

By contrast, if interoperability is required, with or without a speed of answer requirement, a VRS user facing an emergency will be able to resort to a second, third or fourth VRS provider if his or her primary VRS provider is fully engaged in handling other calls. Consumers will have access to any and all VRS interpreters available throughout the nation and stand a far better chance to avoid death, serious injury, destruction of property, or financial loss.

4. Requiring Interoperability will Enhance VRS Competition, Which Will Lead to Increased Innovation and Improved VRS.

The marketing practices that are perpetuating a closed VRS network are rapidly contributing to the creation of a VRS monopoly. By allowing a provider to impose exclusive service agreements on customers who receive its equipment, while the provider receives government-administered subsidies for those services from the TRS fund, the FCC is both condoning and supporting these restrictive practices, and contributing to the creation of this monopoly. This is bad public policy. As the FCC is well aware, nearly the entire Telecommunications Act of 1996 was devoted to a national telecommunications policy that favors competition over market domination.³⁵ In order to ensure that a truly competitive VRS environment exists, it is incumbent upon the FCC to require that all VRS providers taking money from the NECA Interstate TRS Fund make their services equally accessible and available to all subscribers who pay into that fund.

In addition to fostering VRS competition, conditioning the receipt of federal compensation on interoperability will encourage the development of new and innovative services. Specifically, with a level competitive playing field, all VRS providers will have the incentive to improve upon their product to attract new customers. The result will be

better functionalities and features, and greater choices in video relay services, in accordance with the overall purposes of the ADA and our national telecommunications policies. The FCC's decision to impose an interoperability condition on AOL Time Warner was similarly "directed at serving the broader public interest in encouraging entry, competition, innovation, the broader deployment of new services, the lowest possible transaction costs for consumers, and necessary protection of persons with disabilities."³⁶

IV. The FCC Has Ample Authority to Require VRS Interoperability.

The FCC's authority to require interoperability to further the public interest can be found in both specific and general policies and goals of the Communications Act. The Commission's strongest source of authority can be found in the relay mandates themselves: Section 225 imposes upon the Commission a very direct obligation to ensure that VRS is functionally equivalent. Insofar as voice telephone services are interoperable, so too must VRS be interoperable to achieve functional equivalency. The Commission's general obligation to require universal service also provides authority for it to consider the extent to which a VRS provider's practices meet the public interest, and to impose any conditions on its approval of payment to that provider. Section 1 of the Communications Act requires the Commission to "make available, so far as possible, to all the people of the United States . . . adequate facilities at reasonable charges . . ."³⁷ That this authority extends to Internet-related services is made apparent by Sections 2 and 3, which give the FCC jurisdiction over "all interstate and foreign communication by wire or radio" and "all persons engaged within

³⁵ AOL-Time Warner Merger at ¶ 179. In order to promote the policies of this Act, the FCC has ruled that it may "plan in advance of foreseeable events instead of waiting to react to them." *Id.*

³⁶ *Id.* at ¶ 221.

³⁷ 47 U.S.C. § 151.

the United States in such communication . . . ,"³⁸ and define that communication to include "the transmission of writing, signs, signals, pictures and sounds of all kinds . . . including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission."³⁹

While, unlike AOL, the largest VRS provider is not seeking FCC permission to transfer any licenses for the purpose of expanding its offerings, the FCC clearly has authority to regulate VRS practices under Section 225. As the final arbiter of the TRS Interstate Fund, the FCC has a duty to ensure that all providers of VRS act in a manner that does not frustrate the purposes of Section 225 nor interfere with the objectives of other sections of the Communications Act.

V. The Refusal to Interconnect Violates National Policies Established in the Telecommunications Act of 1996.

As noted above, when the FCC decided to impose a condition on AOL's merger with Time Warner, it turned to the Communications Act and national telecommunications policies for guidance in determining the public interest. Several of these policies are reflected in changes to the Act made in 1996.

A. Restrictions on Interoperability Come into Conflict with Section 251.

Congress's preference for policies that promote the interoperability of our nation's telecommunications equipment and networks is evidenced in Section 251 of the Communications Act. Section 251(a)(1) states "[e]ach telecommunications carrier has a duty to (1) interconnect directly or indirectly with the facilities and equipment of other

³⁸ 47 U.S.C. § 152.

³⁹ 47 U.S.C. § 153(33) & (52). Similarly, the FCC found IM, AIHS – and the NPD as an instrumentality that was incidental to these services – to come within its jurisdiction under these Title I provisions. AOL-Time

telecommunications carriers.” The goal of this section – to open up local telephone markets to new competition – was specifically designed to require local exchange carriers possessing market power to provide interconnection with other carriers seeking to provide telephone service in their local areas.⁴⁰

Similarly, in an attempt to keep networks open and interoperable for services benefiting people with disabilities, Section 251(a)(2) requires that carriers not install network features or capabilities that fail to comply with the standards and guidelines of Sections 255 and 256. Section 255 requires that manufacturers and service providers ensure that their telecommunications equipment and services are designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable. Plainly, telecommunications equipment that can access only one of several relay providers is not accessible to and usable by individuals with disabilities.

Finally, Section 251(b)(3) requires local exchange carriers to “provide dialing parity to competing providers of telephone exchange service” and imposes a duty to permit such providers to have “non-discriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays.” The largest VRS provider’s practice of only allowing its deaf and hard-of-hearing video equipment users access to its own services through its exclusive dialing arrangement – its closed network LDAP – is precisely the type of practice that Congress was trying to avoid through a requirement of dialing parity. Blocking access to customers when calls are made on the networks of other providers thwarts the Act’s objective to have non-discriminatory dialing access to all communications services.

Warner Merger at ¶ 177. Of course, the Commission also has general authority to issue any rules and orders as may be necessary in the execution of its functions. 47 U.S.C. §§ 154(i) & 303(r).

B. Restrictions on Interoperability Come into Conflict with Section 256.

Section 256 of the 1996 Act offers guidance as well. Section 256(b)(2)(B) allows the Commission to participate in the development of “public telecommunications network interconnectivity standards that promote access to . . . network capabilities and services by individuals with disabilities.”⁴¹ The inclusion of specific language in this section requiring telecommunications access by persons with disabilities is further evidence of a Congressional mandate for interconnection among all service providers, including VRS providers. Indeed, the stated purpose of this section is “to promote nondiscriminatory accessibility by the *broadest number of users and vendors* of communications products and services . . . through public telecommunications network interconnectivity, and interconnectivity of devices with such networks used to provide telecommunications service” and “to ensure the ability of users and information providers to seamlessly and transparently transmit and receive information between and across telecommunications networks.”⁴²

It runs against the letter and intent of Section 256 for a relay provider to receive federal reimbursement for services used with a product that blocks deaf and hard-of-hearing persons from the networks of other relay providers.⁴³ It is indisputable that this practice

⁴⁰ Conf. Rep. No. 458, 104th Cong., 2d Sess. 152 (1996).

⁴¹ 47 U.S.C. § 256(b)(2)(B).

⁴² 47 U.S.C. § 256(a)(1) (emphasis added).

⁴³ Sorenson may argue that it is not receiving federal reimbursement for the free equipment that it has distributed to consumers. However, it is not a giant leap to conclude that this equipment would not have been distributed for free to consumers but for the expectation that the provider would receive a return on that investment from the TRS NECA Interstate Fund. Indeed, it is quite common, especially in the wireless industry, for telecommunications providers to distribute equipment for free or below cost, with the expectation that they will be well compensated for the calls made by consumers using that equipment. And while wireless service providers do require contracts that restrict users to the use of their networks for outgoing calls once they have given out that low cost equipment, individuals who use that equipment can both call and receive

impedes the ability of deaf and hard-of-hearing relay users to “seamlessly and transparently transmit and receive information” between and across VRS networks. Moreover the requirement for “information providers” to transmit and receive information across telecommunications networks is clearly broad enough to encompass VRS, should the FCC ever determine this to be an information service.

VI. Furnishing Non-interoperable Relay Equipment is Akin to an Unreasonable Practice in Violation of Section 201 of the Act.

Section 201 of the Communications Act, which prohibits carriers from engaging in any unjust or unreasonable practices, also has applicability to the existing VRS situation.⁴⁴ Although this section specifically applies to common carriers and not all VRS providers are also common carriers, relay services offer an accessible substitute for voice telephone services provided by common carriers, i.e., they provide the “functional equivalent” of conventional telephone services.⁴⁵ To this end, for example, Section 225(d)(1)(E) specifically prohibits relay operators from “*failing to fulfill the obligations of common carriers* by refusing calls or limiting the length of calls that use telecommunications relay services.”

There are a number of reasons why the refusal to allow customers to access other VRS is an unreasonable practice in violation of Section 201. The practice of bundling service with equipment that is not interoperable represents an attempt to leverage market power. In the past, the Commission has applied Section 201 to prohibit the bundling of

calls from customers using the networks of competitors. Additionally, the FCC explicitly requires that cellular carriers be capable of handling competitor calls that are roaming on their networks. *See infra* note 48.

⁴⁴ 47 U.S.C. § 201.

⁴⁵ 47 U.S.C. § 225(a)(3).

services where there has been a significant risk of leveraging⁴⁶ and significant negative effect on the market.⁴⁷ Moreover, failing to allow access to the services of other providers violates Section 201's guarantees that consumers will have equal access to the telecommunications carrier of their choice, a right that exists regardless of who supplies the customer's telephone equipment. In an analogous situation, the Commission held that Section 201 required cellular carriers to permit subscribers of other cellular providers to roam on their systems.⁴⁸ Similarly, the Commission has held that it is a violation of Section 201 for a cellular carrier to include an exclusivity provision in an agreement for the resale of its service, wherein the reseller would agree not to resell the services of a competing carrier.⁴⁹

VII. Furnishing Non-interoperable Relay Equipment is Akin to a Discriminatory Practice in Violation of Section 202 of the Act.

Section 202(a) of the Communications Act contains a similar prohibition. That section makes it unlawful for any common carrier to discriminate in the provision of a like communication service “directly, or indirectly by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person, class of persons, or locality.”⁵⁰ When Congress adopted the relay mandates, it enacted a parallel prohibition, directing all carriers to “provide telecommunications relay services on a non-

⁴⁶ *Competition in the Interstate Interexchange Marketplace*, 70 RR 2d 968, 7 FCC Rcd. 2677 (1992).

⁴⁷ *Competition in the Interstate Interexchange Marketplace*, 72 RR 2d 578, 8 FCC Rcd. 2659 (1993).

⁴⁸ *See Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services*, 11 FCC Rcd. 9462, 4 CR 452 (1996). *See also* 22 C.F.R. § 22.901, which requires cellular system licensees to provide cellular service upon request to subscribers in good standing, including roamers.

⁴⁹ *See Trac Communications, Inc. v. Detroit Cellular Telephone Company*, 5 FCC Rcd. 4647, 68 Rad. Reg. 2d (P&F) 30 (1990).

⁵⁰ 47 U.S.C. § 202(a).

discriminatory basis to all users within their serving area.”⁵¹ The burdens borne by the equipment customers of Sorenson Media in order to access its competitor’s VRS, and to receive incoming calls through those services, exemplifies the type of unlawful discrimination that both Sections 225 and 202 were designed to prevent.

VIII. Conclusion

Failing to offer VRS interoperability for incoming and outgoing calls violates the ADA’s mandates for functional equivalency, comes into conflict with longstanding national telecommunications policies that have promoted interconnection and interoperability, and poses serious dangers in the event of an emergency. Just as the FCC would not countenance an arrangement wherein a provider furnished a telephone to a prospective telephone subscriber conditioned on that subscriber’s only using the telephone to make calls on the provider’s telephone network, neither should it approve a policy that locks deaf and hard-of-hearing consumers into using only one VRS provider. In its recent Declaratory Ruling prohibiting VRS rewards and incentive programs, CGB describes TRS as an accommodation required by the ADA.⁵² Since “the purpose of TRS [and by extension, VRS] is to allow persons with certain disabilities to use the telephone system,”⁵³ VRS providers should be doing everything within their means to ensure that their service is functionally equivalent to conventional voice services. They certainly should *not* be permitted to block any incoming or outgoing calls.

The entire universe of interexchange telephone users supports the Interstate TRS

⁵¹ S. Rep. No. 116, 101st Cong., 1st Sess. 81 (1989).

⁵² Declaratory Ruling at ¶ 5.

⁵³ *Id.* at ¶ 8.

Fund. As such, and as a fund that is mandated and administered by the federal government, a single VRS provider should not be allowed to use it to help create a monopoly. In order to encourage innovation and competition, and to fully comply with the Communication Act's mandates for functionally equivalent relay service, the FCC should set as a condition for the receipt of compensation from the Interstate TRS Fund a requirement that a VRS provider's equipment and services be interoperable with the equipment and services of its competitors.

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Respectfully submitted,



J. Kendrick Kresse, Esq.
Jennifer Pesek, Esq.
California Center for Law and the Deaf
14895 East 14th Street, Suite 220
San Leandro, CA 94578
(510) 483-0922 Voice/TTY
(510) 483-0967 Fax
calclad@deaflaw.org

Attorneys for CCASDHH